

ORIGINAL

CITY OF  
BREMERTON

IN THE MATTER OF COMPLIANCE )  
BY NATACHA AND WILLIAM SESKO )  
WITH CHAPTER 90.58 RCW AND )  
THE RULES AND REGULATIONS )  
ADOPTED THEREUNDER )  
INCLUDING THE BREMERTON )  
SHORELINE MASTER PROGRAM )  
\_\_\_\_\_ )

ORDER AND NOTICE OF  
PENALTY INCURRED

TO: NATACHA AND WILLIAM SESKO  
3536 Arsenal Way  
Bremerton, Washington

NOTICE IS HEREBY GIVEN that you have incurred, and there is now due and payable from you, a penalty in the amount of \$250.00 per day for undertaking an activity on the shorelines of the state in violation of Chapter 90.58 RCW and the City of Bremerton's Shoreline Master Program ("BSMP"). This Order imposing a penalty is based on the following factual findings and legal conclusions.

**FACTUAL FINDINGS:**

1. That Natacha and William Sesko own or control property located at 1701 Pennsylvania Avenue, Bremerton, Washington. See Exhibit A for a complete legal description of property, which is incorporated herein by this reference ("The Sesko Property").

2. The Sesko Property is located on a shoreline of the state and bears a shoreline environment designation of industrial.

3. That on January 30, 1997, officials from the City of Bremerton conducted a site inspection of The Sesko Property.

4. That during February and May, 1997, officials from the City of Bremerton conducted an investigation of The Sesko Property, which included review of files maintained by the City of Bremerton pertaining to the administration of the BSMP.

5. That inspection of the property disclosed that development activities and industrial property uses had occurred on The Sesko Property within areas of the site subject to the jurisdiction of the Shoreline Management Act (RCW 90.58) and the BSMP including: (1) construction of a bulkhead and a retaining wall at or beyond the ordinary high water mark, (2) modification of a shoreline of the state by vegetation removal, (3) grading an area located within a shoreline of the state in a manner which disturbed natural drainage patterns by construction of a ramp for a tractor-mounted crane (the activities discussed in (1)-(3) of this Paragraph hereinafter shall be referred to as "Development Activities"), (4) the conduct of commercial activities on the site, including maintenance of a junkyard, and (5) using a crane for the placement of concrete objects (floats) in the Port Washington Narrows.

6. That the investigation disclosed that no City of Bremerton permit has been issued under the BSMP to authorize the development activities and industrial enterprises described in Paragraph 5.

7. That a Cease and Desist Order dated February 11, 1997, ("Cease and Desist Order") was served on Natacha and William Sesko at their residence located at 3536 Arsenal Way, Bremerton, Washington, on February 11, 1997. The Cease and Desist Order required submission of an application for a Shoreline Management Act Substantial Development Permit to authorize Development Activities by February 25, 1997.

8. That the Cease and Desist Order required that use of the property as a junkyard must cease and that all materials and equipment associated with the junkyard must be removed, including stored commercial and industrial materials, motor vehicles, boats, and transportable buildings by February 25, 1997.

9. That the Cease and Desist Order also required that the crane no longer be used for unpermitted activities and that it be removed from the site by February 25, 1997.

10. That an inspection of the site conducted on March 20, 1997, disclosed that the actions mandated by the Cease and Desist Order had not been taken.

11. That review of the City of Bremerton records disclosed that no application for a Shoreline Management Act Substantial Development Permit has been submitted to the City of Bremerton to authorize the above Development Activities as required by the Cease and Desist Order.

## **LEGAL CONCLUSIONS**

1. That the above Development Activities constitute substantial development within the meaning of RCW 90.58.140 and the

BSMP, and are subject to substantial development and conditional use permitting requirements imposed by the BSMP. See BSMP at Chapter 7, Section A, p. 7-1, 7-2.

2. That use of a crane to place cement objects in Port Washington Narrows is a property use subject to the substantial development permit requirement. *Id*; Chapter 8, Definitions at p. 8.2 (Development).

3. That operation of a junkyard is not a permitted use in the industrial shoreline environment because it is neither water related nor water dependent. BSMP Chapter 5, Industrial Development Section, Regulation/5-13.

4. That the BSMP provides that the City of Bremerton has the authority to issue a penalty order to a person in control of local shorelines if an activity is being undertaken on shorelines of the state in violation of Chapter 90.58 RCW and the BSMP. BSMP Chapter 7, Section F(1)(b); F(1)(d).

5. That under the BSMP, each day that a violation continues to exist constitutes a separate violation and is subject to a penalty not to exceed \$1,000.00 for each violation. BSMP Chapter 7, Section F(1)(b).

In view of the foregoing and in accordance with BSMP Chapter 7, Section F(1)(b), it is Ordered that Natacha and William Sesko shall be subject to a \$250.00 per day penalty each day the Development Activities and Industrial Activities described in Paragraph 5 of this Order continue in existence without compliance

with the terms of the Cease and Desist Order, including (1) submitting applications for Shoreline Management Act Substantial Development Permits, (2) removing equipment and objects associated with the junkyard described in Paragraph 8 of this Order from The Sesko Property, (3) removing the crane as described in Paragraph 9 of this Order, and (4) ceasing operation of a junkyard.

It is further Ordered that the penalty shall begin on the date that this Order and Notice of Penalty is served.

It is further Ordered that the penalty described herein is due and payable within thirty (30) days of the receipt of this Notice of Penalty. Please remit the penalty fee to City of Bremerton, Department of Community Development, 239 4th Street, Bremerton, Washington 98337.

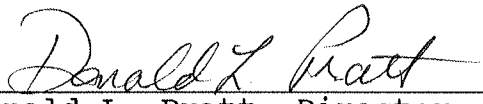
It is further Ordered that if unauthorized conditions on The Sesko Property persist beyond thirty (30) days, accrued penalties shall be due at the end of each thirty-day period which follows.

If, however, for any reason you believe that the violations described herein did not occur or you have an explanation as to why such violations occurred, or any other fact which you believe the City of Bremerton should consider with regard to this penalty, you may submit an Application for Remission or Mitigation of Penalty. The Application for Remission or Mitigation of Penalty must be in writing and must be submitted to the City of Bremerton within thirty (30) days of the date of service of this Notice. Upon receipt of the Application, the City of Bremerton may remit or mitigate the penalty upon the demonstration of extraordinary

circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalty imposed by the City pursuant to this Chapter shall be subject to review by the City Council. BSMP Chapter 7(F)(1)(e).

Upon receipt of an Application for Remission or Mitigation of Penalty, the City of Bremerton will consider the same and will either reduce the penalty, cancel the penalty or allow it to remain as originally stated. You will be duly notified of the City's decision regarding remission or mitigation of the penalty.

Signed in Bremerton, Washington  
this 18<sup>th</sup> day of June, 1997.

  
Donald L. Pratt, Director  
Department of Community Development  
and Shoreline Administrator  
City of Bremerton